THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 26833 of 1998

Oral order:

The petitioner, who is working as Controller with the respondents-APSRTC. On the ground that he was in police custody and that he failed to report about his detention to the Department, the respondents, vide orders dated 15.09.1998, impugned in this writ petition, placed him under suspension and issued d charge sheet framing three charges.

The learned counsel for the petitioner submits that the petitioner was not in police custody, and though he was taken to the police station on 24.08.1998 in connection with the alleged offence, but on the very same day in the evening, he was released. He submitted that the petitioner was on leave on that day, and in fact, he brought this fact to the notice of the Depot Manager. He submits that since he was not in police custody for more than 48 years, the question of initiating disciplinary proceedings against him does not arise, and more so when the alleged offence has nothing to do with the discharge of his duties in the respondents-APSRTC, and thus prayed that the impugned order be quashed and the writ petition be allowed.

This Court, while admitting the writ petition, by order dated 09.11.1998, granted interim suspension of the impugned order, and to set aside the same, the respondents-APSRTC filed vacate stay petition along with the counter affidavit, denying the writ averments. The vacate stay petition, however, was dismissed

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

The charges leveled against the petitioner is that he assaulted a Press Reporter and in that connection he was detained in police custody for more than 48 years. The petitioner denied this charge leveled against him stating that though he was taken to the police station, he was released on the same day. Admittedly, the incident took place in the year 1998, and though in respect of the said incident, the respondents sought to conduct an enquiry and framed charges and placed him under suspension, the fact remains, the petitioner by filing this writ petition obtained stay of the suspension order and the charge sheet. By virtue of the said interim order of this Court, the enquiry proceedings not only came to a standstill, but the petitioner has been continued, and is still being continued in service. Given the fact that the petitioner has been in service continuously for all these years, it is appropriate that the respondents have to consider the desirability of continuing the enquiry proceedings against the petitioner, having regard to the fact that the incident in respect of which the charges were framed, do not arise out of his employment with the respondents and more than nine years have passed from the date of the alleged incident. In that view of the matter, I deem it appropriate to dispose of the writ petition with the following directions:

The petitioner is at liberty to make appropriate representation requesting the respondents to withdraw the impugned enquiry proceedings initiated against him, and if any such representation is made, the respondents shall consider, whether or not it is necessary to continue the enquiry proceedings against the petitioner, particularly keeping in view the fact that more than nine years have elapsed from the date of the alleged incident, the incident does not arise out of his employment with the respondents, and by virtue of the interim order of this court, the petitioner has been continued in service all these years.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Dated: 20th June, 2007.
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